

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

RALPH L. HAYES,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 6:13CV00008
)	
LYNCHBURG CITY SCHOOL BOARD)	DECLARATION OF JOHN B. SIMPSON
)	IN SUPPORT OF MOTION TO
Defendant.)	WITHDRAW AS COUNSEL
)	

John B. Simpson declares, under penalty of perjury, that the following is true:

1. I am counsel of record for Plaintiff RALPH L. HAYES (hereinafter "Plaintiff") in the above-styled case. This declaration is based on my personal knowledge, unless otherwise stated.

2. On or about the end of December 2012 and the beginning of January 2013, I and my firm entered into a written legal representation agreement (hereinafter "The Agreement") with Plaintiff. A true and correct copy of The Agreement is attached as Exhibit "A."

3. Plaintiff undertook the following obligations to me regarding my services:

- a. That he would answer all my phone calls and letters promptly;
- b. That he would communicate with me concerning the goals he has concerning this matter and assist me in handling matters whenever requested; and
- c. That he would cooperate with the processing of his case.

4. Plaintiff was advised and expressly agreed, as a condition of my representation of him, that he would allow me to withdraw as counsel as follows:

Subject to applicable ethical rules, you agree that if any of the following occurs you will allow our withdrawal (whether or not court permission is required) as your attorney from this matter and pay us for, or give us security for, any unpaid fees or unreimbursed costs and expenses we have incurred on your behalf:

- a. You do not pay our bill on time (including your failure to maintain a minimum retainer balance in our trust account of \$1,500.00);
- b. You insist that we do something illegal;
- c. You withhold or misrepresent anything to us, the other side, or the court, or you tell us that you intend to do so;
- d. You fail to answer our phone calls or letters;
- e. You take a position that we find to be legally unsupportable;
- f. A conflict of interest develops; or
- g. The court allows us to withdraw for any other reason.

5. Recently, while attempting to work with Plaintiff to prepare him for his deposition it became clear to me that there are insurmountable barriers that exist between Plaintiff and me which preclude minimally effective and necessary communication or the ability to agree on case strategy. I am informed and of the belief that I cannot represent Plaintiff in a manner that is consistent with my ethical duties under the Rules of Professional Responsibility.

6. Plaintiff has not complied with The Agreement and conditions of my representation by failing to promptly respond to my letters and by failing to cooperate and assist with the handling of his case. Recent examples of this include Plaintiff walking out in the middle of a critically important meeting to prepare him for his deposition and then failing to respond to correspondence regarding necessary direction in his case.

7. The current state of communication and trust between Plaintiff and me is nearly non-existent. I am unable to communicate in any reasonably effective manner with Plaintiff concerning his case.

8. Through The Agreement Plaintiff was provided with notice that his failure to answer phone calls or letters or cooperate with the processing of his case would result in my withdrawal and he further agreed to consent to my withdrawal if he failed to fulfill those obligations.

9. In accordance with our agreement I have asked Plaintiff to consent to my withdrawal as his counsel, but he has refused to consent to same.

10. Plaintiff's current mailing address and phone number are as follows: 1107 Ashburn Drive, Forest, Virginia, 24551; 434-525-9160.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE COMMONWEALTH OF VIRGINIA AND THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Signed and dated this September 25th, 2013 in Charlottesville, Virginia.



JOHN B. SIMPSON

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF that will send a true and correct copy of the foregoing to the following counsel of record:

John C. Johnson, Esq.
Frith Anderson & Peake
P.O. Box 1240
Roanoke, VA 24006-1240

Counsel for Defendant

I hereby certify that on the 25th day of September, 2013, I sent a true and correct copy of the foregoing by mail, postage prepaid, to the following:

Ralph L. Hayes
1107 Ashburn Drive
Forest, Virginia, 24551

Plaintiff


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